



Brotherhood of Locomotive Engineers and Trainmen

A Division of the Rail Conference-International Brotherhood of Teamsters

NATIONAL DIVISION

1370 Ontario Street, Mezzanine • Cleveland, Ohio 44113-1702

Phone: (216) 241-2630 • Fax: (216) 241-6516

RICHARD K. RADEK
Vice President

January 8, 2009

To All Parties Of Record:

Re: FRA – Locomotive Engineer Certification Case
J. E. Heer, Hearing Petitioner, DOT Docket No. FRA-2007-0019
(FRA Docket No. EQAL 07-32)

Dear Sirs and/or Madams:

Enclosed find Hearing Petitioner Heer's Statement of Claims and Request for Relief relative to the above captioned case.

Very truly yours,

Richard K. Radek,
BLE Vice President

Enclosure.

DEPT. OF TRANSPORTATION
DOCKETS
2009 JAN -8 P 3-36

**U.S. Department of Transportation
Federal Railroad Administration
Washington, D.C.**

**FRA - Locomotive Engineer Certification Case
J. E. Heer, Petitioner
DOT Docket # FRA 2007-0019
FRA Docket No. EQAL 2007-32**

Union Pacific Railroad Company, Respondent Railroad

Petitioner's Initial Statement of Claims and Request For Relief

Engineer J. E. Heer, hereinafter "Petitioner," through his representative, Richard K. Radek, submits the following Statement of Claims and Request for Relief.

I. Issues That May Be Resolved As A Matter Of Law.

Petitioner does not believe there is an issue in this case that may be resolved as a matter of law.

II. Issues That Will Require the Submission Of Evidence.

This case involves the question whether Petitioner received authority from the train dispatcher to operate Train No. 618 from the Barrington coach yard on to the main line at Barrington, Illinois, at approximately 8:40 A.M. on February 8, 2007. Petitioner believes that it will be necessary to submit evidence to establish he obtained authority to occupy the main line. The evidence can be drawn in part from the transcript of the company-level hearing begun February 22, 2007, including the tape recording of relevant radio transmissions, supplemented by the taking of depositions from those directly involved in the critical communications and from others who heard them, as it is

Petitioner's belief the tape of radio transmissions may be inconclusive in some pertinent aspects.

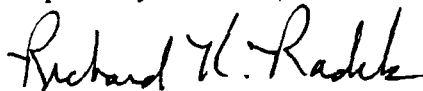
It is also Claimant's belief that the application of Rule 9.8 of the General Code of Operating Rules (GCOR) in conjunction with the controlled signal at Mile Post 32 conveyed authority for the movement of Train No. 618 on to the Main Line. In support of this aspect of Petitioner's case, Rule 9.8 will be placed in evidence, with some amount of expert interpretation, obtained through statement or deposition, accompanying it.

III. Petitioner's Claim For Relief.

Petitioner asks that the railroad's decision to revoke his engineer's certification be reversed.

Authority to grant the requested relief is found in 49 CFR § 240.409 generally and in 49 CFR § 240.409 (t) and (u) specifically.

Respectfully submitted,



Richard K. Radek, Vice President
Brotherhood of Locomotive Engineers and Trainmen

Date:

January 8, 2009

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing document has been served upon and filed with the following persons via email and/or postage paid first class mail.

Gareth W. Rosenau,
Administrative Hearing Officer
FRA, U. S. DOT, RCC 20
Mail Stop 10 (Room W31-316.A)
1200 New Jersey Avenue, S. E.
Washington, D. C. 20590


DOT Docket Clerk
Central Docket Mgmt System
Docket Operations, M-30
West Building Ground Floor (Room W12-140)
1200 New Jersey Avenue, S. E.
Washington, D. C. 20590

Anna Winkle, Esq.
FRA, U S DOT, RCC-11
1200 New Jersey Avenue, S. E. - Mail Stop 10
Washington, D. C. 20590

W. Scott Hinckley, Esq.
Union Pacific Railroad Company
1400 Douglas Street, MS 1180
Omaha, NE 68179

Douglas W. Davidson,
BLET Local Chairman
1820 Asbury Avenue
Evanston, IL 60201

Mr. John Heer
2509 Wilke Road
Rolling Meadows, IL 60008



Richard K. Radek,
BLE Vice President

Dated: 01/08/09